

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 683

Epidemiological Monitoring Systems

SPONSOR(S): Jenne

TIED BILLS:

IDEN./SIM. BILLS: SB 1424

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health Care Regulation Policy Committee	14 Y, 0 N, As CS	Guy	Calamas
2)	Policy Council			
3)	Health & Family Services Policy Council			
4)				
5)				

SUMMARY ANALYSIS

The Committee Substitute for House Bill 683 authorizes the Florida Department of Health to collaborate with and disclose information to the U. S. Centers for Disease Control and Prevention within epidemiological monitoring systems. The bill also provides that any activities undertaken pursuant to this section meet state and federal privacy and security laws and regulations.

The bill does not appear to have a fiscal impact on state government.

CS/HB 683 provides an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Federal Stimulus bill and Public Health Funding

As a part of the 2009 American Recovery and Reinvestment Act (ARRA), the federal government made available grant money from the U.S. Centers for Disease Control and Prevention (CDC) to states for data collection relating to healthcare-associated infections (HAI). The funding is available through the Epidemiology and Laboratory Capacity for Infectious Diseases Program (ELC Program) for a period of up to two years to build and improve state response to healthcare-associated infections.¹

Healthcare-associated infections are infections that patients acquire in a health care facility during the course of receiving treatment for other conditions. According to the CDC, these infections rank in the top ten leading causes of death in the United States.² The Florida Department of Health (DOH) estimates that nationwide some 1.7 million infections and 99,000 deaths occur annually.³ Although little data is currently available on HAI in Florida, hospitals, long-term care facilities and ambulatory care centers are subject to recurrent infectious outbreaks.⁴

The National Healthcare Safety Network (NHSN) is an internet-based epidemiological surveillance system for the collection of patient and health care provider data.⁵ Facility participation in the NHSN is voluntary and the system is administered by the CDC's Division of Healthcare Quality Promotion.⁶ The CDC uses HAI data submitted to the NHSN to estimate prevention practices nationally. Locally, the NHSN allows participating facilities to compare their infection rates against other facilities and against "national aggregate metrics."⁷

¹ Centers for Disease Control and Prevention, Healthcare-associated Infections: Recovery Act, "About Epidemiology and Laboratory Capacity for Infectious Diseases (ELC) Funding," see <http://www.cdc.gov/HAI/recoveryact/aboutELC.html>, (last visited February 14, 2010).

² Centers for Disease Control and Prevention, "Healthcare-Associated Infections (HAIs)", see <http://www.cdc.gov/ncidod/dhqp/healthDis.html> (last visited February 14, 2010).

³ Florida Department of Health, Bill Analysis, Economic Statement and Fiscal Note, House Bill 683 (January 29, 2010).

⁴ Florida Department of Health, *ELC - Healthcare-associated Infections – Building and Sustaining State Programs to Prevent Healthcare-Associated Infections Grant Abstract*, (on file with the Committee).

⁵ Centers for Disease Control and Prevention, "About NHSN," see <http://www.cdc.gov/nhsn/about.html> (last visited February 14, 2010).

⁶ *Id.*

⁷ *Id.*

A small number of Florida facilities already participate in the NHSN. According to DOH, it does not have the authority to collaborate with participating facilities and the CDC to access this particular data.⁸

Chapter 405, F.S., governs medical information available for research. It allows any person or organization to provide information about the treatment of any person to governmental health agencies to be used for studies to reduce morbidity and mortality.⁹ According to the Florida Hospital Association, Chapter 405, F.S., provides sufficient authority for hospital participation in the NHSN.¹⁰ According to DOH, the CDC is currently prevented from identifying participating Florida facilities to the DOH.¹¹

Florida facilities report some disease condition and treatment data to the Florida Agency for Health Care Administration for the Floridahealthfinder.gov website used by Florida consumers, health care professionals and researchers.¹² NHSN data differs from what is already collected by state government because it is targeted at the specific HAIs caused by central lines, catheters and ventilators. Data submitted to the NHSN is not available to the public and is used to create national statistical models as well as local comparison information.

Privacy and Security of Health Care Information

The 1996 Health Insurance Portability and Accountability Act (HIPAA) required the federal government to issue regulations protecting the privacy of health information. The U.S. Department of Health and Human Services (HHS) issued Standards for Privacy of Individually Identifiable Health Information on December 28, 2000, which took effect on April 14, 2003. The regulations establish a set of national standards for the protection of health information, and apply to health plans, health care clearinghouses and certain health care providers. The regulations permit states to afford greater privacy protections to health information. Exceptions for state law are provided for public health and state regulatory reporting.¹³ HIPAA does not apply to disclosures of protected health information by covered entities (facilities) to public health agencies that are authorized by law to receive the information.¹⁴

Data collected by the NHSN includes both patient and facility information in electronic format. Section 308(d) of the federal Public Health Service Act provides for “Assurance of Confidentiality” statements which are “used for projects conducted by CDC staff or contractors that involve the collection or maintenance of sensitive identifiable or potentially identifiable information.”¹⁵ Projects related to the NHSN operate under the following Assurance of Confidentiality:

The information obtained in this surveillance system that would permit identification of any individual or institution is collected with a guarantee that it will be held in strict confidence, will be used only for the purposes stated, and will not be disclosed or released without the consent of the individual, or the institution in accordance with Section 304, 306, and 308(d) of the Public Health Service Act (42 USC 242b, 242k, and 242m(d)).¹⁶

⁸ Florida Department of Health, Bill Analysis, Economic Statement and Fiscal Note, House Bill 683 (January 29, 2010).

⁹ s. 405.01, F.S.

¹⁰ Teleconference with the Florida Hospital Association, February 11, 2010 (notes on file with the Committee).

¹¹ Correspondence with Florida Department of Health staff, February 12, 2010 (on file with the Committee).

¹² Florida Agency for Healthcare Administration, see <http://www.floridahealthfinder.gov/researchers/researchers.shtml> (last visited February 15, 2010).

¹³ U.S. Department of Health and Human Services, “Health Information Privacy,” see

<http://www.hhs.gov/ocr/privacy/hipaa/understanding/summary/index.html> (last visited February 15, 2010).

¹⁴ 45 C.F.R. 164.512(b).

¹⁵ Centers for Disease Control and Prevention, Assurance of Confidentiality, see <http://www.cdc.gov/od/science/regs/privacy/> (last visited February 14, 2010).

¹⁶ Centers for Disease Control and Prevention, “About NHSN,” see <http://www.cdc.gov/nhsn/about.html> (last visited on February 15, 2010).

State Grant Proposal and Grant Status

Three activities are available for funding through the ELC program. DOH applied for “Activity B” funds which are designed to increase facility participation in the NHSN and to use NHSN data to establish baseline HAI data for the state.¹⁷ The DOH proposal consists of three parts:

- Establishment of a HAI Advisory Board;
- Development of a comprehensive statewide HAI prevention plan and a standardized HAI data collection mechanism; and
- Creation of regional HAI best prevention practices collaboratives.^{18 19}

In September 2009, DOH received \$1.7 million in nonrecurring ARRA funds to implement the ELC program. In fiscal year 2009-2010, the Legislative Budget Commission approved a budget amendment authorizing the release of funds to cover the first year expenditures. The Governor’s Legislative Budget Request for FY 2010-2011 requests the release of the remaining grant award. According to DOH, \$1 million of the grant will be unusable without implementation of the provisions of CS/HB 683.

Effect of Proposed Changes

CS/HB 683 authorizes DOH to collaborate with and disclose information to the CDC within epidemiological surveillance systems. The bill also provides that any activities undertaken pursuant to this section meet relevant state and federal privacy and security laws and regulations.

B. SECTION DIRECTORY:

Section 1: Amends s. 385.3025, F.S., relating to patient and personnel records; copies; examination.
Section 2: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

¹⁷ Centers for Disease Control and Prevention, *Preventing Healthcare-Associated Infections, Epidemiology and Laboratory Capacity (ELC) Program Through the American Recovery and Reinvestment Act*, see <http://www.cdc.gov/HAI/recoveryact/PDF/ELCpresentation051409gj.pdf> (last visited February 14, 2010).

¹⁸ Florida department of Health, *ELC - Healthcare-associated Infections – Building and Sustaining State Programs to Prevent Healthcare-Associated Infections Grant Abstract*, (on file with the Committee).

¹⁹ Correspondence with Florida Department of Health staff, February 12, 2010 (on file with the Committee).

None.

D. FISCAL COMMENTS:

Although the provisions of CS/HB 683 have no fiscal impact on state government, it is unclear if the HAI surveillance and monitoring program will remain active after FY 2010-2011. If so, the program may require state funds to continue epidemiological surveillance functions.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On February 16, 2010, the House Health Care Regulation Committee adopted one amendment to House Bill 683.

The amendment clarifies that existing state and federal regulations regarding privacy and security of personal health information applies to epidemiological surveillance activities performed by the Florida Department of Health.

The bill was reported favorably as a Committee Substitute. This analysis reflects the committee substitute.